

**REMARKS**

The Applicants have carefully studied the outstanding Official Action. The present response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance.

The drawings and specification are objected to as failing to comply with 37 CFR 1.83(a) because they allegedly fail to show every feature specified in the claims. Specifically, the strap as claimed in claim 4 was not shown.

The strap has been added to Figs 1 and 2 as requested by the examiner and is denoted as 3' on the accompanying replacement sheets. The communication link denoted in the original Figures as element 3 is shown as being attached to, or embedded in, strap 3'. No new matter has been added as the amended material here reflects the discussion on page 9, lines 18-21 and page 9, lines 22-25. The specification has been amended on page 9, lines 20, 22 and 33 and page 10, line 1 to reflect the flexible strap shown as element 3' in the amended drawings.

Claim 6 stands rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out or distinctly claim the subject matter which the applicant regards as the invention. The use of the term "hangar-like" has been objected to by the Examiner. Claim 6 has been amended to better indicate what is intended and the claim is now believed to be definite. Support for the amendment is found *inter-alia* on page 10, line 4; page 9, line 4; Figs. 1 and 2; and original claim 4.

Claim 5 has been amended to bring it into agreement with original claim 4 and amended claim 6. Support for the amendment has been noted above.

Claims 1, 4-7, 14-18, 21, and 24 stand rejected under 35 USC § 102(b) as allegedly being anticipated by Nakayama et al (US 5,730,149).

Claims 2 and 3 are rejected under 35 USC § 103(a) as being unpatentable over Nakayama et al (US 5,730,149) as applied to claim 1 and further in view of Ackerman (US Pub No 2002/0026111 A1).

Claims 8, 19, 20, 22 and 23 are rejected under 35 USC § 103(a) as being unpatentable over Nakayama et al (US 5,730,149) as applied to claim 1 and further in view of Saito et al (US 5,119,829).

Claims 10 and 12 are rejected under 35 USC § 103(a) as being unpatentable over Nakayama et al (US 5,730,149) as applied to claim 7 and further in view of Hough et al (US 6,261,522 B1).

Claims 25-29 and 31-38 are rejected under 35 USC § 103(a) as being unpatentable over Nakayama et al (US 5,730,149) in view of Ackerman (US Pub No. 2002/0026111 A1).

Claim 30 is rejected under 35 USC § 103(a) as being unpatentable over Nakayama et al (US 5,730,149) in view of Ackerman (US Pub No 2002/0026111 A1) as applied to claim 25 and further in view of Saito et al (US 5,119,829).

In view of the claimed portability of the toilet unit of the present invention, the applicants believe that original claim 1 of the present invention is patentably distinct from the apparatus taught by Nakayama et al. Nakayama's device requires being screwed into the toilet fixture and thus can not be deemed to be intrinsically portable. Additionally, original claim 1 indicates that measurement is done in the collection and sampling sub-unit while this sub-unit is positioned inside the toilet bowl. In Nakayama, the means for measurement are positioned, and the measurements made, in a housing attached to the toilet fixture but not within the toilet bowl.

Nakayama requires a syringe pump to transfer the collected urine sample to the external housing which contains the means for measurement.

However, in order to further emphasize the distinguishing elements of the present invention from that of Nakayama, claim 1 has been amended. Claim 1 now further emphasizes that the means for removably fastening the toilet unit extend over the lip of the toilet bowl so that the collection and sampling sub-unit is positioned within the toilet bowl. Moreover, it further emphasizes (1) that the measurement is made by the collection and sampling sub-unit when it is positioned within the bowl and (2) that the collection and sampling sub-unit includes means for measurement. Portability is further emphasized by adding the words “non-permanent positioning.” These features clearly are not found in Nakayama.

The amendments are supported *inter alia* by Figs. 1 and 2; page 9, lines 3-4; page 9, lines 7-8; page 9, lines 22-24; page 10, 1-25; page 10, lines 31-32; original claim 4; and original claim 7.

The first communications link limitation has been amended to specifically indicate that it is “. . . attached to or embedded in said means for removably fastening . . . .” This is supported on page 9, lines 19-20 of the specification.

In view of these amendments to claim 1, the Applicants believe there are limitations and/or elements in the claim that are not present in Nakayama et al and that the 35 USC § 102 rejection of claim 1 is traversed.

The Applicants further believe that since claims 2-24 depend, directly or indirectly, from allowable independent claim 1, these dependent claims are also allowable.

The Applicants respectfully contend that independent method claim 25 as originally presented is distinct from the cited prior art of Nakayama and Ackerman when the

references are taken singly or together. As explicitly noted in the step of positioning of claim 25, the measurement is effected in the means for collection and measuring with the means positioned within the toilet bowl. In Nakayama, the measurement is done in a urinalysis device located within a housing positioned on the toilet fixture, and not within the toilet bowl. Ackerman does not deal with toilets and is entirely silent on the matter.

In order to further emphasize this distinction, claim 25 has been amended to repeat the aforementioned limitation in the step of positioning. The limitation that the measurement is affected by the means for collection and measuring positioned within the toilet bowl now also appears in the step of measuring. The fact that measurements are made in the collection and sampling sub-unit within the toilet bowl is clearly set forth *inter alia* on page 10, lines 1-25. Accordingly, claim 25 contains an element and/or limitation nowhere taught or suggested in Nakayama or Ackerman. Since all elements of a claim must be taught or suggested by the prior art, which is not the case in this instance, the Applicants believe that the 35 USC § 103(a) rejection of claim 25 is traversed.

Since claims 26-38 all depend, directly or indirectly, from allowable independent claim 25, these dependent claims must also be allowable and their 35 USC § 103(a) rejection is also traversed.

The Examiner has indicated that claims 9, 11, and 13 are objected to as being dependent from a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. New claims 39-41 have been added and correspond to rewritten original claims 9, 11, and 13, including at least as many limitations as the original base and intervening claims. Accordingly, these claims should be allowable.

**CONCLUSION**

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

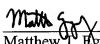
**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 4787-7000.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

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By: \_\_\_\_\_

  
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